

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

04 11845 GAO

CIVIL ACTION NO. 04-11845

FILED
2004 AUG 24 PM 1:49
U.S. DISTRICT COURT
DISTRICT OF MASS.

ROSARY DoCARMO, ADMINISTRATRIX *
OF THE ESTATE OF MICHAEL DoCARMO *
Plaintiff, *

MAGISTRATE JUDGE *Herapet*

v. *
C&V FISHING CORPORATION and *
F/V ILHA do CORVO *

RECEIPT #
AMOUNT \$ *012*
SUMMONS ISSUED *10*
LOCAL RULE 4.1
WAIVER FORM
MCF ISSUED
BY DPTY. CLK. *POW*
DATE *8/24/04*

PLAINTIFF'S COMPLAINT

(Parties and Jurisdiction)

1. The plaintiff is the surviving widow and the duly appointed administratrix of the Estate of the late Michael DoCarmo of South Dartmouth, Massachusetts.
2. The defendant, C&V Fishing Corporation, at all times material hereto owned, operated and controlled the F/V ILHA do CORVO.
3. This cause of action is prosecuted pursuant to the Death on the High Seas Act, 46 U.S.C. § 761, et seq.

COUNT I

Negligence

(Rosary DoCarmo v. F/V ILHA do CORVO)

4. That at all times material hereto the defendant owned, operated and controlled the F/V ILHA do CORVO.

5. That at all times material hereto the plaintiff's decedent, Michael DoCarmo, was the Captain and a member of the crew of the F/V ILHA do CORVO.

6. That on or about February 18, 2002 due the negligence of the defendant, its officers, directors, shareholders, and crewmembers of the F/V ILHA do CORVO, plaintiff's decedent, Michael J. DoCarmo, met his death while in the service of the vessel.

7. That as a proximate cause of said negligence and resulting death of Michael J. DoCarmo the plaintiff and others dependent upon him for support, sustained substantial loss of anticipated revenues.

WHEREFORE plaintiff demands judgment against defendant in the amount of \$1,000,000.00.

COUNT II

Unseaworthiness

(Rosary DoCarmo v. F/V ILHA do CORVO)

8. Plaintiff incorporates herein each and every allegation of paragraphs 1 through 7, supra.

9. That on or about February 18, 2002 plaintiff's decedent was found to be ill and in dire need of medical care while aboard the F/V ILHA do CORVO.

10. That the crew of said vessel were improperly trained and/or negligently failed to respond in a timely manner to the needs of the plaintiff for appropriate medical care, thereby rendering the vessel unseaworthy.

11. That as a proximate result of the defendant's negligence as forestated there was a substantial delay in obtaining appropriate care for plaintiff's decedent. Had appropriate and timely medical care been administered it is more likely than not that plaintiff's decedent would have survived.
12. That as a proximate result of the vessel's negligence as aforestated plaintiff's decedent expired.

WHEREFORE plaintiff demands judgment against the defendant in the amount of \$1,000,000.00.

PLAINTIFF DEMANDS A TRIAL BY JURY ON EACH AND EVERY COUNT

RAISED HEREIN.

Dated: August 23, 2004

The Plaintiff, Rosary DoCarmo,
By her attorney
JOSEPH G. ABROMOVITZ, P.C.

Joseph G. Abromovitz
BBO NO. 011420
858 Washington Street, 3rd Floor
Dedham, MA 02026
Phone: (781) 329-1080

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Rosary Do Carmo, Administratrix of Estate of Michael Do Carmo v. CBV Fishing Corp., et al.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- ☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☐ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.
- ☒ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

*Also complete AO 120 or AO 121 MASS for patent, trademark or copyright cases

04 11845 GAO

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒

7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES ☒ NO ☐

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division ☒ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Joseph G. Abramowitz

ADDRESS 850 Washington Street, 3rd Fl., Dedham, MA 02026

TELEPHONE NO. (781) 329-1080

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Rosary Do Carmo, Administrative X of the
Estate of Michael Do Carmo

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

C&V Fishing Corporation and
F/V ILHA DO CORVO 24 D 1:49

County of Residence of First Listed
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Joseph G. Abramowitz
850 Washington St., 3rd Fl.
Dorham, MA 02026 (781) 329-1080

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 DEF
Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4 DEF
Citizen of Another State ☐ 2 ☐ 2 DEF
Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5 DEF
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 DEF
Foreign Nation ☐ 6 ☐ 6 DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 160 Medicare Act <input type="checkbox"/> 170 Recovery of Defaulted Student Loans (Each Victim) <input type="checkbox"/> 180 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 190 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 400 State Resportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

46 U.S.C. § 761, et seq. Wrongful death

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

\$1,000,000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE
8/22/04
FOR OFFICE USE ONLY

SIGNATURE OF ATTORNEY OF RECORD

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE